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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,717	09/23/2003	Douglas P. Bogia	P16-490	2417
28962 7590 06/26/2008 BUCKLEY, MASCHOFF & TALWALKAR LLC 50 LOCUST AVENUE NEW CANAAN, CT 06840				
EXAMINER				
GOLD, AVIM				
ART UNIT		PAPER NUMBER		
2157				
MAIL DATE		DELIVERY MODE		
06/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,717

Applicant(s)

BOGIA, DOUGLAS P.

Examiner

AVI GOLD

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 18-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s) Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the election filed on April 10, 2008. Claims 9-17 were elected. Claims 1-8 and 18-30 were withdrawn. Claims 9-17 are pending.

Election/Restrictions

1. Claims 1-8 and 18-30 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 10, 2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 9 recites the limitation "one or more other nodes" in the first line of the claim and "the node" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimori, U.S. Patent Application Publication No. 2002/0080783.

Fujimori teaches the invention as claimed including an improved communication control apparatus and method for use in data communication (see abstract).

Regarding claim 9, Fujimori teaches a node activation method, comprising:

determining whether one or more other nodes that may become active are coupled to the node (paragraphs 27, 54; Fujimori discloses a plurality of nodes and activation of nodes);

reading an identifier from a shared storage node (paragraph 44; Fujimori discloses a storage section of each node and each node having identification information);

activating the node if the identifier indicates the node (paragraph 54, Fujimori discloses activating a node that is indicated);

selecting one of the node and the other nodes as initially active if the node and the other nodes are not indicated by the identifier read from the shared storage node (paragraph 54);

writing an identifier of the node to the shared storage node if the node and the other nodes are not indicated by the identifier read from the shared storage node (paragraph 54, Fujimori discloses a newly established node identification);

rewriting the identifier of the node to the shared storage node periodically if the node is initially active (paragraph 49, Fujimori discloses rewriting a node identification);
and

selecting the node as active if the identifier of the node remains in the shared storage node after a predetermined period of time and a last active node has not informed the node that it is active within the predetermined period of time (paragraph 54).

Regarding claim 10, Fujimori teaches the node activation method of claim 9, wherein a hardware device external to the node determines the presence of network nodes and reports present network nodes to the node (paragraph 41, Fujimori discloses hardware related to nodes).

Regarding claim 11, Fujimori teaches the node activation method of claim 9, wherein re-writing the identifier of the node to the shared storage node occurs after re-reading the identifier from the shared storage node and when the identifier from the shared storage node is not the identifier of the node (paragraph 49).

Regarding claim 12, Fujimori teaches the node activation method of claim 9, further comprising communicating with the one or more other nodes that could become active and are coupled to the node and selecting an active node from among the node and the other nodes based on activity prior to the node and one or more other nodes that could become active last being de-energized (paragraph 54).

Regarding claim 13, Fujimori teaches the node activation method of claim 9, wherein the node and the other nodes are coupled to a common network (paragraph 9, Fujimori discloses nodes connected to a network).

Regarding claim 14, Fujimori teaches the node activation method of claim 9, wherein the identifier is a globally unique identifier (paragraph 54).

Regarding claim 15, Fujimori teaches the node activation method of claim 9, wherein the identifier is a system unique identifier (paragraph 54).

Regarding claim 16, Fujimori teaches the node activation method of claim 9, wherein the one of the node and the other nodes that is selected as initially active is the one of the node and the other nodes having a lowest identifier value (paragraph 54).

Regarding claim 17, Fujimori teaches the node activation method of claim 9, wherein the one of the node and the other nodes that is selected as initially active is the one of the node and the other nodes having a highest identifier value (paragraph 54).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,665,675 to Mitaru, because it discloses shared storage nodes.

U.S. Pat. No. 6,598,080 to Nagami et al., because it discloses nodes that are activated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. G./

Examiner, Art Unit 2157

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157